THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.22937 OF 2005

DATED 25.10.2005

Polimera Kanna Appa Rao, S/o late Appa Rao,

R/o Vamsi Homoeo Hall, D.No.12-1-67, Main Road,

Anakapalle, Visakhapatnam District.

…Petitioner

and

The Commissioner, Anakapalle Municipality,

Anakapalle, Visakhapatnam District and others.

…Respondents

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WRIT PETITION NO.22937 OF 2005

ORDER:

The petitioner was tenant of a shop room bearing Door No.12-1-67 situated on the main road of Anakapalle town, where he is practising as Homoeopathy Doctor. Respondent 2 and 3 herein filed rent control case being R.C.C.No.5 of 1998 against the petitioner on the file of the Court of the Principal Junior Civil Judge, Anakapalle for eviction on the ground of default in payment of rent. The petitioner denied the title of the respondents 2 and 3 and also pleaded that one Gollapudi Lalithamba is owner of the premises to whom the petitioner was allegedly paying rents. After conducting regular trial, the learned Rent Controller by order dated 14.02.2005, ordered eviction of the petitioner. Aggrieved by the same, the petitioner filed appeal being R.C.A.No.1 of 2005 on the file of the Court of the learned Senior Civil Judge, Anakapalle. It appears even before the appellate rent control authority could stay the eviction order, respondents 2 and 3 demolished the shop room. It appears the contesting respondents approached the first respondent and filed an application

seeking building permission. Having come to know about the same, the petitioner issued a legal notice to the first respondent on 16.08.2005 calling upon the first respondent to drop the proposal for approval of the plan for construction of new shops and structures, in vain. Therefore, he filed the present writ petition.

The provisions of A.P.Buildings (Lease, Rent and Eviction) Control Act, 1960 (Rent Control Act, for short) are applicable only in respect of residential and non-residential buildings. The same has no application for vacant land. Admittedly, respondents 2 and 3 demolished the tenanted premises and applied for building permission to the first respondent. Therefore, pendency of the rent control appeal being R.C.A.No.1 of 2005 is no bar. Secondly, even if the petitioner is entitled for any benefits under the provisions of the Rent Control Act, he can only seek expeditious disposal of the rent control appeal. Thirdly, as seen from the writ affidavit, the petitioner allegedly obtained an agreement of sale from Gollapudi Lalithamba and filed O.S.No.65 of 1996 on the file of the Court of the Senior Civil Judge, Anakapalle for specific performance of agreement of sale. The details about this suit are not forthcoming. Assuming that the same is pending, nothing prevents the petitioner to implead respondents 2 and 3 herein and obtain appropriate interlocutory orders. Insofar as the application of the respondents 2 and 3 under Municipalities Act seeking building permission is concerned, the petitioner cannot be said to have any grievance. Therefore, the writ petition is not maintainable.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

25.10.2005

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